

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

FELICIA JANICE WEATHERALL,

Plaintiff,

v.

Case No. 20-CV-863

PANERA BREAD,

Defendant.

REPORT AND RECOMMENDATION

On June 8, 2020, plaintiff Felicia Janice Weatherall, proceeding pro se, filed a complaint against her former employer, Panera Bread Mequon WI, alleging she was discriminated against on the basis of her race, color, gender/sex, religion and age. (ECF No. 1.) Accompanying Weatherall's complaint was a petition and affidavit to proceed without prepayment of fees and/or costs, commonly referred to as a motion for leave to proceed in forma pauperis ("IFP"). (ECF No. 2.)

The court granted Weatherall's motion to proceed IFP. (ECF No. 6.) However, it noted that her complaint "appears to have 'plead[ed] herself out of court,' and the petition appears to be untimely filed." (ECF No. 6 at 6.) The court ordered Weatherall to submit an amended complaint by July 30, 2020, providing information on how equitable

tolling might apply to her complaint. (ECF No. 6.) On August 3, 2020, Weatherall informed the court of a change of address. The court resent the June 30, 2020 order to Weatherall at the new address that same day. Over 30 days after the order was resent to the new address, and over 60 days after the court originally sent Weatherall the order, she has still not submitted an amended complaint.

Liberalizing Weatherall's complaint, as the court must in light of her pro se status, the court is unable to discern any plausible reason to toll the statute of limitations. Therefore, this court must recommend dismissal of Weatherall's complaint. Having previously alerted Weatherall to the deficiencies in her complaint and afforded her the opportunity to amend it, the court finds that affording Weatherall further opportunity for amendment is unlikely to remedy the complaint's deficiencies. Therefore, the court also will recommend dismissal of this action.

IT IS THEREFORE RECOMMENDED that Weatherall's complaint and this action be dismissed.

Your attention is directed to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b)(2) whereby written objections to any order herein or part thereof may be filed within fourteen days of service of this order. Objections are to be filed in accordance with the

Eastern District of Wisconsin's electronic case filing procedures. Failure to file a timely objection with the district court shall result in a waiver of a party's right to appeal.

Dated at Milwaukee, Wisconsin this 4th day of September, 2020.


WILLIAM E. DUFFIN
U.S. Magistrate Judge